

GOTTLIEB, RACKMAN & REISMAN, P.C.

COUNSELORS AT LAW

PATENTS · TRADEMARKS · COPYRIGHTS · INTELLECTUAL PROPERTY

270 MADISON AVENUE

NEW YORK, N. Y. 10016-0601

PHONE: (212) 684-3900 · FACSIMILE: (212) 684-3999

WEB: <http://www.grr.com> · E-MAIL: [info@grr.com](mailto:info@grr.com)

GEORGE GOTTLIEB  
DAVID S. KASHMAN  
ALLEN I. RUBENSTEIN  
JEFFREY M. KADEN  
TIBERIU WEISZ  
MARIA A. SAVIO  
RICHARD S. SCHURIN  
MARC P. MISTHAL  
STEVEN STERN  
BARRY R. LEWIN

COUNSEL  
DIANA MULLER\*

\*MEMBER OF THE BAR  
OF ARGENTINA ONLY

DONNA MIRMAN BROOME  
BARBARA H. LOEWENTHAL  
JOSHUA R. MATTHEWS  
ARIEL S. PEIKES  
SAMANTHA G. ROTHBAUS  
JONATHAN M. PUROW

PATENT AGENT  
ZOYA V. CHERNINA

OF COUNSEL  
JAMES REISMAN

September 12, 2013

**VIA ECF and FIRST CLASS MAIL**

Honorable Alvin K. Hellerstein  
Southern District of New York  
500 Pearl Street, Room 1050  
New York, New York 10007

**Re: Knoll, Inc. v. Moderno, Inc.  
11 CV 0488 (AKH)**

Dear Judge Hellerstein:

We represent Knoll, Inc. in connection with the above-referenced matter.

This letter is in opposition to Defendants' motion to compel, Docket No. 114. Defendants' motion should be denied.

Federal Rule of Civil Procedure 37 (a)(1) provides that on a motion to compel, the moving party's motion "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Defendants' motion to compel lacks any such certification.

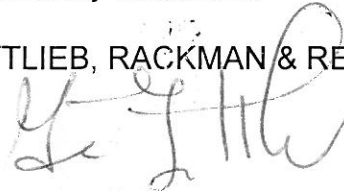
Moreover, Defendants did not meet and confer with Knoll's counsel or attempt to meet and confer with Knoll's counsel before filing its motion to compel. Failure to meet and confer is a basis for denying a motion to compel. See Yoon v. Celebrity Cruises, Inc., 1999 U.S. Dist. LEXIS 2779, \*17-\*19 (S.D.N.Y. March 12, 1999); Prescient Partners, L.P. v. Fieldcrest Cannon, Inc., 1998 U.S. Dist. LEXIS 1826, \*6-\*12 (S.D.N.Y. Feb. 18, 1998).

The foregoing is reflected in Rule 2 (E) of your Honor's individual rules. Due to prior proceedings in this case, Defendants are well aware of this requirement.

Since there has been no "meet and confer" and no certification that a "meet and confer" occurred, Defendants' motion should be denied.

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

A handwritten signature in dark ink, appearing to read "G. Gottlieb", is written over the printed name of the law firm.

George Gottlieb

cc: Janeen Lambert, Esq. (via ECF)